

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RHONDA POWELL,

CASE NO. 17-cv-0695-PP

Plaintiff,

v.

NANCY BERRYHILL,

Defendant.

**ORDER GRANTING MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYMENT OF THE FILING FEE (DKT. NO. 3)**

On May 18, 2017, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 3.

In order to allow a plaintiff to proceed without paying the filing fee, the court must first decide whether the plaintiff has the ability to pay the filing fee, and if not, must determine whether the lawsuit is frivolous. 28 U.S.C.

§§1915(a) and (e)(2)(B)(i).

The plaintiff filed an affidavit indicating that she is separated from her spouse, earns \$1300 a week, and her expenses exceed her income. Dkt. No. 3 at 1-2. She also has \$5,000.00 in savings. Id. at 3. She is behind on all her bills because she is unable to work a full forty hours at her job. Id. at 4. The court concludes from that information that the plaintiff has demonstrated that

she cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Neitzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

In her complaint, the plaintiff asserts the Administrative Law Judge's ("ALJ") findings are not supported by substantial evidence. Dkt. No. 1 at 2. She further argues that the ALJ's findings are contrary to social security laws and regulations. Id. At this early stage in the case, the court concludes that there may be a basis in law or fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to appeal *in forma pauperis* (Dkt. No. 3).

Dated in Milwaukee, Wisconsin this 23rd day of June, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge